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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93, 94, and 95

[Docket No. APHIS-2006-0074]

RIN 0579-AC36

Highly Pathogenic Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule; reopening of comment period.

SUMMARY: We are reopening the comment period for our interim rule that amended the regulations concerning the importation of animals and animal products to prohibit or restrict the importation of bird and poultry products from regions where any subtype of highly pathogenic avian influenza (HPAI) is considered to exist. The interim rule also imposed restrictions concerning importation of live poultry and birds that have been vaccinated for certain types of HPAI, or that have been moved through regions where any subtype of HPAI is considered to exist. This action will give the public an additional opportunity to comment on the interim rule and on a change to its provisions that we are considering.

DATES: We will consider all comments that we receive on or before [Insert date 30 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2006-0074>.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2006-0074, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2006-0074> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Javier Vargas, Case Manager, National Center for Import and Export, Animal Health Policy and Programs, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737; (301) 851-3300.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) regulations in Title 9 of the Code of Federal Regulations (CFR), parts 93, 94, and 95 (referred to below as the regulations), govern the importation into the United States of specified animals and animal products and byproducts to prevent the introduction of various animal diseases, including Newcastle disease and highly pathogenic avian influenza (HPAI).

On January 24, 2011, we published in the Federal Register (76 FR 4046-4056, Docket No. APHIS-2006-0074) an interim rule¹ that amended the regulations governing the importation

¹ To view the interim rule and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2006-0074>.

into the United States of live birds, poultry, eggs for hatching, and bird and poultry products and by-products. The interim rule was effective upon publication.

Comments on the interim rule were required to be received on or before March 25, 2011. In a document published in the Federal Register on May 3, 2011 (76 FR 24793, Docket No. APHIS-2006-0074), we reopened the comment period for an additional 15 days until May 18, 2011, to allow interested persons additional time to prepare and submit comments. We received 16 comments by that date.

We are once again reopening the comment period for the interim rule and are soliciting public comment on a change we are considering to the provisions of the January 2011 interim rule.

Specifically, the interim rule amended §§ 93.101(b) and 93.205(a) to prohibit the importation into the United States of live birds or poultry that have been moved through a region identified in accordance with § 94.6(a) as a region where any form of HPAI exists. We took this action to minimize the risk of introducing HPAI into the United States through the importation of infected avians. However, several peer-reviewed scientific studies² have come to our attention since the publication of the interim rule establishing that pigeons (and other Columbiform species such as doves) have a very low risk of being infected by HPAI viruses and would therefore contribute little to the risk of transmission and spread of such viruses. Thus, it appears that it may not be necessary to prohibit the importation of Columbiform avians from HPAI

² Studies we reviewed included Infectious and Lethal Doses of H5N1 Highly Pathogenic Avian Influenza Virus for House Sparrows (Passer Domesticus) and Rock Pigeons (Columbia Livia) J VET Diagn Invest July 2009 21: 437-445; and Pathogenesis and pathobiology of avian influenza virus infection in birds, M.J. Pantin-Jackwood and D.E. Swayne, Southeast Poultry Research Laboratory, Agricultural Research Service, USDA, Athens, GA 30605.

regions provided that all other requirements in the regulations pertaining to pigeons, doves, and other poultry are followed.

Under § 93.209 of the current regulations, poultry, including Columbiform avians, offered for importation from any region of the world except Canada are required to be quarantined in an approved facility for at least 30 days after importation into the United States to determine, through inspections and testing, their freedom from communicable diseases of poultry and from exposure to such diseases. We further require in § 93.205(a) certification that live poultry, including Columbiform avians (except those from Canada), were inspected on the premises of origin immediately before the date of movement from such region and that they were then found to be free of evidence of communicable diseases of poultry. We also require that, as far as it has been possible to determine, during the 90 days prior to movement the poultry were not exposed to communicable diseases of poultry and the premises were not in any area under quarantine. Columbiform avians and other poultry must also not have been vaccinated with a vaccine for the H5 or H7 subtype of avian influenza.

Section 93.205(a) also requires that live poultry are also required to have been kept in the region from which they are offered for importation since they were hatched, or for at least 90 days immediately preceding the date of movement, that the poultry have not been moved through a region identified in accordance with § 94.6(a) of this subchapter as a region where any form of HPAI exists, and that, as far as it has been possible to determine, no case of HPAI or exotic Newcastle disease (END) occurred on the premises where such poultry were kept, or on adjoining premises, during that 90-day period.

Based on our review of the studies referred to above and the mitigations already in the regulations, we have determined that the importation of Columbiform avians from regions

considered to have HPAI poses a minimal risk to the United States. Therefore, we are considering adding to the final rule following this interim rule a provision to amend § 93.205(a) of the regulations to allow the importation of Columbiform avians that have originated in or transited regions considered to have HPAI subject to the regulations. Columbiform avians and other poultry from regions considered to have END would remain prohibited from importation to the United States.

We are therefore reopening the comment period on Docket No. APHIS-2006-0074 for an additional 30 days. This action will allow interested persons additional time to prepare and submit comments on the interim rule and on the change we are considering with respect to Columbiform avians.

Authority: 7 U.S.C. 450, 1622, 7701-7772, 7781-7786, and 8301-8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 6th day of June 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

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